COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT
INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

DATE OF INCIDENT	FILE NO.
October 27, 1994	I.A.B. 008383

PERSONNEL INVOLVED

KLUTH, David #[redacted]
SLOAN, Gary #[redacted]
LUCERO, Jesse #[redacted]
SCHAAP, Michael #[redacted]
BARRETT, Richard #[redacted]
BROAD, John #[redacted]
KAMMER, Todd #[redacted]
ROMERO, Cesar #[redacted]
MOSLEY, Van, Sgt. #[redacted]
DUNCAN, Charles, Sgt. #[redacted]

REQUESTOR

Mark M. Squiers, Chief
Custody Division South

CHARACTER OF CASE

[redacted]

LOCATION

441 Bauchet Street, Los Angeles, 90012 (Men's Central Jail Module 4400)

REFERENCE	INVESTIGATOR
Herbert Pettus, Captain Central Jail	John A. Nemeth, Sergeant Ernie Gjendem, Sergeant Internal Affairs Bureau

SYNOPSIS

Deputy Kluth (4400 Module Officer) left the module security booth after being relieved by Deputy Sloan. Kluth left the security booth to confront an inmate (later identified as Complainant [redacted], who had left his cell without authorization. Kluth had previously locked [redacted] on "B" row because [redacted] refused to return to his cell. Kluth confronted [redacted] alone and removed [redacted] from "B" row, directing [redacted] to assume a searching position on a wall in the sally port area of the module. When Kluth attempted to handcuff [redacted], he resisted and began wrestling with Kluth. Kluth and [redacted] fell to the floor as Lucero and Schaap arrived. (Sloan said that he had been talking to Lucero, a 5000 floor prowler, on the phone when he noticed the altercation between Kluth and [redacted] and told Lucero he needed help in module 4400.)

9000 floor Deputies Romero, Broad, Kammer, and Barrett heard a P.A. announcement and also responded to module 4400. Deputy Barrett held the module door for the group and as Romero entered the module, Sloan told Romero to relieve him in the 4400 security booth, which he did. Sloan exited the booth and joined the other deputies in using force on [redacted] Kluth was on [redacted]

SUBMITTED BY	REFERRED FOR RECOMMENDATION TO
Norman L. Smith, Captain Internal Affairs Bureau	William T. Stonich, Commander Force Review Committee

STATUS OF PERSONNEL INVOLVED

Sloan, Kluth, Schaap, and Lucero - [redacted]
Duncan, Mosley, Barrett, Broad, Kammer, and Romero - [redacted]

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upper left torso area, Sloan on his left buttock area, Lucero on his upper left torso area, and Schaap on [redacted]' lower right torso/upper right leg area. Deputies Broad and Kammer each held down one of [redacted]' legs. Deputy Romero remained in the security booth throughout the incident and he and Barrett reportedly never touched [redacted]

After the altercation, Deputies Romero, Barrett, Kammer, and Broad all left module 4400 before a supervisor arrived and they never reported their presence there to anyone. Sloan, Schaap, Lucero, and Kluth all reported punching and applying control holds on [redacted], but they all denied ever kicking or touching his testicles or groin area. The reports submitted by Sloan, Kluth, Lucero, and Schaap are vague and, according to the interview statements, the reports do not list all of the force they used on [redacted]. The reports also do not mention that Barrett, Broad, Kammer, and Romero were present during the use of force.

At the conclusion of the incident, [redacted] was taken to the MCJ clinic for medical treatment. [redacted] had received a cut over his left eyebrow, but did not complain of any other injuries while at MCJ. Sgt. Duncan, the acting watch commander, interviewed [redacted] on video tape and [redacted] said that he suffered his injuries from a fight with gang members in his cell. [redacted] was sent to LCMC for head X-rays and once there, [redacted] complained of testicle pain and told doctors that deputies had kicked him in the groin during the incident. LCMC doctors found that [redacted] had sustained a severely fractured left testicle, which required surgical removal.

Four inmate witnesses were located who had observed and/or heard some or all of the altercation. One inmate ([redacted]) had been locked in the "B" row shower directly in front of where the incident occurred. He identifies Deputy Lucero from a photo line up and described a deputy with an orange flat top haircut (Sloan) as being two of the deputies he saw kick [redacted] during the incident. He said that Sloan held one of [redacted] legs and kicked [redacted] in the groin while another unknown deputy held [redacted] other leg on the floor. Another inmate ([redacted]) heard the deputy who had relieved Kluth in the booth (Sloan) say to a responding deputy (possibly Romero), "Go ahead and get you some!" to which the deputy replied, "Naw, its already under control." [redacted] then heard the booth deputy (Sloan) say, "Well, come in and cover the booth while I get mine." Two other inmate witnesses ([redacted] and [redacted]) also described similar observations.

It was not known that Broad, Barrett, Kammer, and Romero were present and/or involved in the use of force incident until the 4000 control booth deputy (Howard) said that she saw them run into module 4400 during the incident. Kammer and Broad stated the reason they did not report that they used force on [redacted] was because they felt that their action of restraining [redacted]' legs by holding them to the floor did not require reporting under the Department's force policy. Barrett denied seeing any force used or using any force himself and said that he arrived in the module after the incident was over. Romero said that he never touched [redacted], but admitted witnessing force and said that he did not personally report it to a sergeant, but instead, told Lucero to tell the sergeant for him. Romero stated that Lucero told him that Sergeant Duncan said that he (Romero) did not have to write a report about what he saw. Romero said that he saw Kluth, Sloan, Schaap, and Lucero each punch [redacted] 10 to 15 times. Although Romero denied seeing any deputy kick [redacted], he said he saw Sloan "throw" his knee into [redacted]' left buttock area.

Sergeant Mosley (the 4000 floor sergeant) approved Kluth's SHAD 49 report which lacked detail regarding the exact force Kluth used. The supplemental reports submitted by Sloan, Schaap, and Lucero were not signed as approved by a sergeant and also lacked detail. Sergeant Mosley did not attempt or instruct anyone to locate any witnesses to the force incident. Sergeant Mosley wrote a supervisor's use of force memorandum that was extremely lacking in detail and did not address several pertinent issues.

Sergeant Duncan (the acting watch commander) did not challenge [redacted]' inaccurate account of

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the force incident. Sergeant Duncan also completed the watch commander's use of force package without reading the reports submitted by the involved deputies. Sergeant Duncan accepted Sergeant Mosley's use of force package without requesting corrections or additions. Sergeant Duncan wrote a watch commander's use of force memorandum and submitted a use of force package that were both lacking in detail and did not address several pertinent issues.